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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,630	02/27/2004	Dohn J. Trempala	KNOXX.024C2	7659
20995	7590	06/23/2004	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			BARRETT, SUZANNE LALE DINO	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/789,630	TREMPALA, DOHN J.
	Examiner	Art Unit
	Suzanne Dino Barrett	3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 February 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 February 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/27/04</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6,487,882. Although the conflicting claims are not identical, they are not patentably distinct from each other because they merely recite like elements using different terminology and/or phraseology.

3. Claims 21-30 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,698,261. Although the conflicting claims are not identical, they are not patentably distinct from each other because they merely recite like elements using different terminology and/or phraseology.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3,8-13,18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hoshino 5,419,650. Hoshino teaches a plug 21 and face plate 32 assembly for a pipe end 50 comprising a threaded actuator 70 having a configured head and attached to a tapered spreader member 41 which expands the plug member 21 into frictional engagement with the pipe walls 50 when locked. The plug comprises a front surface (at 51a in Fig.2), rear surface (at 21a in Fig.2), side surface (at 21a in Fig.1) and a slot 22 (fig.1) extending longitudinally between the front and rear and radially between the side and a relief opening (at 23 inside the plug) and further, wherein the inside of the plug forms a tapered channel (at 24 in Fig.1), coextensive with the relief opening, which receives a spreader member 41 and the actuator 70.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshino '650 in view of Borenstein '771. Hoshino teaches a plug member on a locking cap but fails to specify the material used. Borenstein et al teach, in col. 4, line 65, the use of brass among other suitable materials for a plug lock member. It would have been obvious to one of ordinary skill in the art to modify the material of Hoshino by providing brass as taught by Borenstein et al as an obvious matter of design choice.

8. Claims 4-6,19,20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshino '650 in view of Segal '110. Segal teaches the use of a bolt head 17 (Fig. 6) comprising at least 7 apexes and 8 wavy grooves actuated by a similarly configured key head. It would have been obvious to one of ordinary skill in the art to modify the bolt head 22 of Hoshino by providing a configured head and accompanying key head as taught by Segal to enhance the security of the lock.

9. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshino '650 in view of Drach '193. Drach teaches a lock cap face plate having two spaced pin members 24,26 which are received in pin apertures 56,58

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on a key member. It would have been obvious to one of ordinary skill in the art to change the key configuration of the face plate 32 of Hoshino by providing pin members as taught by Drach since they are recognized art related equivalents.

10. Claims 14,21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshino '650 in view of Jansen '460. Hoshino teaches all of the structure of the device as claimed except that Hoshino fails to teach a threaded outer plug portion. Jansen teaches a similar plug and spreader arrangement comprising a plug body 14 having external threads 13 to engage the internal threads of a pipe member 10. It would have been obvious to modify the plug portion of Hoshino by providing external threads as taught by Jansen and further to provide a suitable number of threads to perform the desired function, as an obvious matter of design choice in enhancing the strength of the coupling.

11. Claims 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patterson '831. Patterson et al teach a key/tool member comprising a deformation zone which, upon torquing of the tool beyond a predetermined amount, deforms in a twisting manner. It would have been obvious to one of ordinary skill in the art to utilize such a tool/key having a socket wrench portion 115 as taught by Patterson et al, on a locking cap actuator such as that previously discussed with respect to Hoshino.

12. Claims 24,29 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Stehling '501 in view of Patterson '831. Stehling teaches a key member having a hole portion (at 40) which is capable of receiving a key

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ring. It would have been obvious to one of ordinary skill in the art to modify the key of Stehling by providing a deformation zone as taught by Patterson et al as an obvious matter of design choice in enhancing the security of the lock cap.

13. Claims 24,30 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Borenstein '771 in view of Patterson '831. Borenstein et al teach a key member comprising a T-shaped cross member configuration at one end (49/66) with a hole 66 disposed in one cross member. It would have been obvious to one of ordinary skill in the art to modify the key of Borenstein et al by providing a deformation zone as taught by Patterson et al as an obvious matter of design choice in enhancing the security of the lock cap.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the newly cited Kruger et al '544 patent.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne Dino Barrett whose telephone number is 703-308-0825. The examiner can normally be reached on M-Th 8:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Suzanne Dino Barrett
Primary Examiner
Art Unit 3676

sdb